

1 Daulen Jason Hughes #V22456  
2 P.O. Box 8800  
3 Corcoran, Ca 93212  
4  
5  
6  
7

FILED  
RECEIVED



APR 10 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

8 In The United States District Court  
9 For The Northern District Of California  
10

11 C-07-4442 CRB

12 Daulen Jason Hughes,  
13 Petitioner,  
14 VS.  
15 Derral Adams,  
16 Respondent,  
17

Petitioner's Response To  
Respondent's Motion

18  
19  
20  
21 Respondent contends Petitioner Failed To Prose-  
22 cute The Instant Petition For Writ Of Habeas Corpus  
23 Within The Statute Of Limitations, Set By The "ANTI  
24 EFFECTIVE DEATH PENALTY ACT" (AEDPA). Asserting  
25 Petitioner Exceeded The Deadline By three Months.  
26 (see, respondent's motion to dismiss Argument Page 2)  
27

28 Petitioner Submits The Deadline By three Months

1 Was Exceeded. "However Extraordinary Circumstances  
2 Beyond Petitioner's Control Prevented Petitioner From Filing  
3 His Federal Habeas Petition In A TIMELY Manner AS  
4 Follows".

5 (1) Petitioner Was Placed In Administrative Segregation  
6 (AD-SEG) From July or August of 2005 Until Petition-  
7 er was Released From The (SHU) on June 28<sup>th</sup>, 2006.  
8

9 (2) Petitioner's AD-SEG Placement Began While Housed  
10 At Pleasant Valley State Prison, In Coalinga, California.  
11 From July or August 2005 until March 2006.  
12

13 (3) Upon Being Placed In AD-SEG Petitioner's Property that  
14 Personal was HANDLED By Prison Staff, and Petitioner's Ex  
15 cellmate Where Upon Petitioner Discovered that His Per-  
16 sonal Property And Some Legal Documents were missing  
17 tamper plus destroyed. Petitioner had re-start "writ of Habeas"  
18

19 (4) While Housed In AD-SEG Petitioner Was Not Given  
20 Access To ALL His Legal Materials.  
21

22 (5) On Or About March 2006 Petitioner Was Transferred From  
23 Pleasant Valley Prison's AD-SEG To Corcoran State Prison.  
24 To Begin SHU-Term, About Three and Half Months. Petitioner's  
25 AD-SEG Placement, And Segregated Housing Unit (SHU)  
26 Term Are Massed As One Single Time Period In This Response  
27

28 (6) The Law Library At Corcoran SHU Was Not Available

1 (6) The Law Library At Corcoran SHU Was Not Available  
2 To The Petitioner Frequently Due To It Being Closed More  
3 Often Than Not

4  
5 (7) Petitioner Was Only Able To Use The Law Library  
6 At Least Twice While Housed In Corcoran (SHU.)

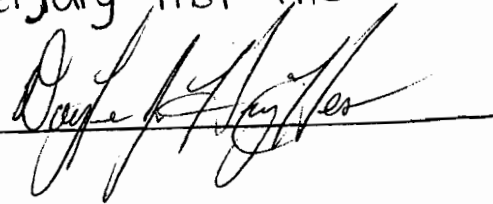
7  
8 At This Present Time Petitioner Still Has Not Received  
9 ALL Property While Serving His AD-SEG / SHU Term.  
10 Petitioner Did File A 602 Grievance Form, On The Issue  
11 of His Property Which Was Indeed Partially Granted  
12 (See Exhibit A).

13  
14 Once Released From Serving SHU Term Petitioner Began  
15 To Have Access To The Law Library Frequently Also other  
16 Resources From Inmates To Ascertain Knowledge To  
17 Properly Execute A Federal Habeas Petition.

18  
19 Case, Espinoza - Matthews Vs. People of The State of  
20 California, 2005 - D5 DAR 14879, The Court Found That  
21 A Habeas Petitioner Is Entitled To Equitable Tolling of  
22 The Statue of Limitations When Extraordinary Circum-  
23 stances Beyond His/Her Control Prevents The Habeas  
24 Petitioner From Properly Prosecuting A Federal Habeas  
25 Petition (Id.) Petitioner's Extraordinary circumstances  
26 As Herein Mentioned Arguably Meets That test.

27  
28

1 I Declare Under Penalty of Perjury that The  
2 Foregoing Is True And Correct.  
3 X



4  
5 Dated: April 2008  
6

7 Respectfully Submitted.  
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28

# EXHIBIT

"A"



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## INMATE/PAROLEE

Location: Institution/Parole Region

Log No

Category

## APPEAL FORM

CDC 802 (12/87)

C-FILE COPY

1. CSP-CORCORAN

1. 06-1890

7

2. \_\_\_\_\_

2. \_\_\_\_\_

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
D. HUGHES	122456	Property C/O <del>Corcoran</del> Rodriguez	4B2R/32

A. Describe Problem: Approximately April 21st 2006, property correction officer ~~Corcoran~~ Rodriguez gave me little of my property. The problem is I didnt get choose for example letters of incoming mail. For some reason had send out my property to residence, base on rules of Mr. ~~Corcoran~~ Rodriguez or this prison Corcoran. Also in my property couldnt choose which "pictures" thats problem because had message on particular photo. Yes I gave my signature, send out my property, but I feel its wrong it'll be taken away from trust account, plus had couldnt choose items myself. This situation delaying me for subjects currently working on. Magazines dont have, now got to wait notify them of address.

If you need more space, attach one additional sheet.

See Attachment →

B. Action Requested: Would definitely like go threw my property choose want I'd like to keep, Also request money shouldnt be taken out my account, thats a C.D.C problem for example when it rain lots of water gets inside my cell #64 should I have pay. Action requested is simple here why make it hard for me

Inmate/Parolee Signature: Wayden HughesDate Submitted: 4-25-06C. INFORMAL LEVEL (Date Received: 5-5-06)

Staff Response: THIS APPEAL IS DENIED ACCORDING TO PROCEDURES IN PLATES TO A STAFF MEMBER. ARE 15 LETTERS ~~ARE~~ PICKED AT RANDOM THIS ALSO INCLUDES PICTURES A/C/D/C FROM WAS FILLED OUT AND SIGNED BY you ON 4-21-06! ALL ITEMS LISTED ON THE 1083 FORM ARE ALLOWED ITEMS AND NOT ALLOWED ITEMS!

INMATE/PAROLEE  
APPEALS  
BRANCH  
APR 25 2007CLERK  
APR 25 2007Orig -  
15 Day  
SEStaff Signature: A. RodriguezDate Returned to Inmate: 5-5-06

## D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Even though I Sign the 1083, all my property wasnt present for me to choose "why"? Now 15 letters and photos were pick by C/O. Their are certain letters I need, one contains address book. Theirs particular photo has info, I need. Not satisfied of how this process took place definitely like chose my items before they plan dispose items Attachment

Signature: Wayden HughesDate Submitted: 5-9-06

Note: Property/Funds appeals must be accompanied by a completed

Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:

APPEALS  
OFFICE  
APR 25 2007

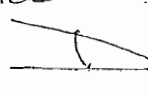
2 of 3  
pages

2 of 3 pages

Continue from page one 602

change, am allow up to fifteen magazines, but Mr. <sup>Rodriguez</sup>~~Chavez~~ chose for me not to have one, issue "Sad" thing. Furthermore am allow too have address book, because <sup>Rodriguez</sup>~~Chavez~~ brought me my property not all my items were with him. He gave me two bags, with television. This is problem felt should have been present while the correction officer went threw my property that way could of chose my items and stuff I'm allow to have. Enclose with this 602 is CDC 1858, because somebody behaved improperly and I feel this situation should be investigated, because for (one) I shouldn't have to pay have property sent away. So what do individual do about his radio to my knowledge what dont have now with me as property, no longer on my property sheet.

My intention here not to give false information. I dont have copy of paper I sign to have property sent to residence. <sup>Rodriguez</sup>~~Chavez~~ didnt offer me copy of no paper that I sign or the rules of why property must not stay until release out the SHU. My shu release expected to be on May 10<sup>th</sup> 2006 or June 10<sup>th</sup> 2006. Do have CDC 1858 for property correctional officer <sup>Rodriguez</sup>~~Chavez~~ my complaint is legit sure many inmates would agree what I'm doing is not wrong. Its right thing to proceed forward and have this situation investigated.

 Daylen Hughes #127456

First Level ☐ Granted ☐ P. Granted ☐ Denied ☐ Other \_\_\_\_\_

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: \_\_\_\_\_ Due Date: \_\_\_\_\_

Interviewed by: \_\_\_\_\_

Staff Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date Completed: \_\_\_\_\_

Division Head Approved: \_\_\_\_\_ Returned \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date to Inmate: \_\_\_\_\_

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Second Level ☐ Granted ☒ P. Granted ☐ Denied ☐ Other \_\_\_\_\_G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 5/19/06 Due Date: 7/3/06☒ See Attached LetterSignature: Ryder Date Completed: 6/27/06Warden/Superintendent Signature: [Signature] Date Returned to Inmate: 6/27/06

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

My counselor Mr. Ryder allow me to review my "C-File", that's when I knew this 602 was P. Granted and signature I WAS NOT GIVEN THE ORIGINAL OF THIS 602. Approximate <sup>May</sup> June 2007 Mr. Ryder went over my "C-File" with me. Then I request copies of this 602 Log Number 06-1890 I still havent recieved all my personal property I'm still very much upset how Corcoran Prison Staff claim they threw away my property. I've ~~would~~ responded within 15 days but I never recieved original 602

Signature: [Signature] Date Submitted: July 9th 2007

For the Director's Review, submit all documents to: Director of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001  
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☐ Denied ☐ Other \_\_\_\_\_☐ See Attached Letter



California Department of Corrections

California State Prison, Corcoran

## M E M O R A N D U M

128-B

RECEIVING & RELEASE  
Extension 6135INMATE: HUGHESCDC# 122456HOUSING 4B2R-32L

## MAIL-OUT PERSONAL PROPERTY PACKAGE

YOUR MAIL-OUT PROPERTY HAS BEEN RECEIVED/RETURNED FOR THE FOLLOWING REASONS, ON THIS DATE 4/27/06☐ UPS WILL NOT DELIVER TO A P.O. BOX☐ PARTY DID NOT RESPOND TO 3 DELIVERY ATTEMPTS☐ PARTY MOVED☐ WRONG ADDRESS☐ NO ZIP CODE☒ OTHER: CANT SHIP OUT OF THE U.S.  
BEFORE W SIGN TRUST WITHDRAWAL AND  
NEW ADDRESS. RETURN TO R&R

WITHIN 30 DAYS OF THIS NOTICE, YOU ARE REQUIRED TO SUBMIT IN WRITING TO R&R YOUR DISPOSITION OF THE ABOVE MENTIONED PACKAGE. DISPOSITION WILL BE LIMITED TO THE (5) CHOICES, IN ACCORDANCE WITH THE CALIFORNIA CODE OF REGULATIONS, TITLE-15 SECTION 3191 (C). IF YOU CHOOSE TO MAIL-OUT THE PACKAGE, RESUBMIT A SIGNED TRUST WITHDRAWAL SLIP WITH THE CORRECTIONS MENTIONED TO R&R.

IF YOU FAIL TO RESPOND IN WRITING WITHIN (30) THIRTY DAYS, YOUR PROPERTY WILL BE DISPOSED OF ON 6/1/06.

INTERL  
C/O L. TOME

R&amp;R MAIL-OUT OFFICER

CSP/CORCORAN

ORIGINAL: R&amp;R

COPY: INMATE

# Memorandum

Date : June 5, 2006

To : HUGHES, V22456  
Facility 4B2R-32L  
California State Prison Corcoran

Subject: **STAFF COMPLAINT RESPONSE - APPEAL #CSPC-6-06-01890**

## APPEAL ISSUE:

Hughes stated that he should have been allowed to be present along with the Property Officer when his property arrived from PVSP so that he could personally select the items that he wanted to keep and which items he wanted to send home.

## DETERMINATION OF ISSUE:

A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal has been handled as follows:

☒ PROCESSED AS A STAFF COMPLAINT APPEAL INQUIRY

☐ REFERRED TO THE OFFICE OF INTERNAL AFFAIRS (Note: You will be notified of the conclusion of any internal affairs investigation)

## SUMMARY FOR APPEAL INQUIRY:

Hughes was interviewed on June 5, 2006, regarding CDCR Inmate Appeal (Staff Complaint) Log # CSPC-6-06-01890, by R. Salinas Jr, Correctional Sergeant. Hughes stated that he was not aware that this was the way things were done in SHU, and that even if he did sign a CDC form 1083, it was a mistake to do so. Hughes is appealing the fact that inmates do not get to be present when incoming property arrives from another institution so that they can pick and choose what items they want to keep and which items they get to send home. He also disagrees with the policy that inmates pay for the postage to send these items home.

## FINDINGS FOR AN APPEAL INQUIRY:

Your appeal is *partially granted* at the ☒ Second level, as an inquiry into your allegations has been conducted. ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE. As such, results of any inquiry/investigation will not be shared with staff, members of the public, or inmates. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process.

Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Director's Level of Review. Once a decision has been rendered at the Director's Level of Review, your administrative remedies will be considered exhausted.

**Allegation of Peace Officers Misconduct Complaint**

\*Please print and sign below:

R. Salinas Jr, Sgt. R Salinas Jr

[Signature] date 6-8-06

[Signature] \*Appeal Interviewer (Print Name)

Appeal Interviewer (Signature)

[Signature]  
Associate Warden/Division Head/Medical Manager

6/27/06  
Date

[Signature]  
Appeals Coordinator/Correctional Counselor II

8/4/06  
Date

[Signature]  
Warden/CDW/HCM

8/7/06  
Date

## VERIFICATION

STATE OF CALIFORNIA  
COUNTY OF KINGS

(C.C.P. SEC. 446 & 2015.5; 28 U.S.C. 1746)

I, Daylen J. Hughes DECLARE UNDER PENALTY OF PERJURY THAT:  
I AM THE Petitioner IN THE ABOVE ENTITLED ACTION. I HAVE  
READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND  
THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED  
THEREIN UPON INFORMATION, AND BELIEF, AND AS TO THOSE MATTERS, I  
BELIEVE THEM TO BE TRUE.

EXECUTED THIS Seventh DAY OF April 2008  
AT CORCORAN, CALIFORNIA.

(SIGNATURE)

(DECLARANT/PRISONER)

## PROOF OF SERVICE BY MAIL

(C.C.P. SEC. 1013 (a) & 2015.5; 28 U.S.C. SEC. 1746)

I, Daylen J. Hughes AM A RESIDENT OF Corcoran, Kings  
County in STATE OF CALIFORNIA, I AM OVER THE AGE OF  
EIGHTEEN (18) YEARS OF AGE AND AM / A PARTY OF THE ABOVE INTITLED  
ACTION. MY ADDRESS IS P.O. BOX 3471, CORCORAN, CA. 93212.

ON April 7th 2008 IS SERVED THE FOREGOING.

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)  
ON THE PARTY(S) HEREIN BY PLACING A TRUE COPY(S) THEREOF, ENCLOSED IN A  
SEALED ENVELOPE(S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES  
MAIL, IN A DEPOSIT BOX SO PROVIDED AT CORCORAN STATE PRISON.

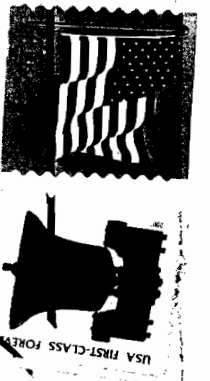
THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED,  
AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING  
AND THE PLACE SO ADDRESSED, I DECLARE UNDER PENALTY OF PERJURY THAT THE  
FOREGOING IS TRUE AND CORRECT.

DATE: 2008

(DECLARANT/PRISONER)



Darren Jason  
P.O. Box 8802  
Corcoran, Ca 93212  
3502 DR SUP



To: Office of the Clerk  
U.S. Northern District Court of California  
450 Golden Gate Avenue  
San Francisco, California  
94102

Confidential Mail  
Legal Mail.

STATE PRISON  
CORCORAN